IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR NO.8 of 2007

DATE OF DECISION: January 8, 2007

Jagtar Singh

….Petitioner

VERSUS

Jagir Singh

….

Respondent

CORAM:- HON'BLE MR. JUSTICE VINEY MITTAL

PRESENT: Shri P.S.Khurana, Advocate for the petitioner.

Viney Mittal,J.(Oral).

The defendant is petitioner before this Court. He is aggrieved against an order dated July 26, 2006 passed by the Appellate Court whereby on an appeal filed by the plaintiff, the order dated January 10,2006 passed by the trial Court had been set aside and an application under order 39 Rules 1 and 2 of the Civil Procedure Code filed by the plaintiff has been allowed. Consequently, the defendant petitioner has been restrained from excavating the earth to the extent of five feet alongwith the passage during the pendency of the proceedings in the suit filed by the plaintiff.

After hearing the learned counsel for the petitioner and taking into consideration the observations made by the learned Appellate Court in the impugned order, I do not find any justification to interfere in the present petition.

The learned Appellate Court has rightly observed that digging of the earth just near the passage is likely to damage the

passage in question and, therefore, has rightly issued the injunction claimed by the plaintiff.

Dismissed.

However, before parting with this order, I direct that any observations made by the Appellate Court or by this Court, while disposing of the interim application shall not be taken to be an expression of opinion on the merits of the case by the Trial Court.

The learned trial Court is also directed to decide the main suit, as expeditiously as possible and make an effort to decide the main suit within a period of one year itself.

January 8, 2007 (Viney Mittal)
KD Judge